

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

KONINKLIJKE PHILIPS ELECTRONICS
N.V. and U.S. PHILIPS CORPORATION,

Plaintiffs,

V.

CINRAM INTERNATIONAL INC., et al.,

THE ADS GROUP, et al.,

ENTERTAINMENT DISTRIBUTION
COMPANY (USA) LLC, et al., and

OPTICAL EXPERTS MANUFACTURING
INC., et al.

Defendants.

Civil Action Nos.

08CV0515 (RGS)

08CV4068 (RGS)

08CV4070 (RGS)

08CV 4071 (RGS)

ECF Case

DECLARATION OF GREGORY J. CARBO IN SUPPORT OF DEFENDANTS'

OPENING *MARKMAN* BRIEF CONCERNING U.S. PATENT 5,068,846

I, Gregory J. Carbo, Esq., do hereby declare as follows:

1. I am an attorney with the firm of Cooper & Dunham LLP, attorneys for defendants in the above-captioned matter. I am a member in good standing of the Bar of the State of New York and of this Court. I am over 18 years old, competent, and if called to testify as to the contents of this declaration, would do so truthfully. I submit this declaration in support of Defendants' Opening *Markman* Brief Concerning U.S. Patent 5,068,846.

2. Attached at **Exhibit 1** is a true and correct copy of U.S. Patent No. 5,068,846.

3. Attached at **Exhibit 2** is a true and correct copy of an Amendment dated July 19, 1979, in U.S. Patent Application Serial No. 05/949,919, filed October 10, 1978.

The notation “FH 0492” refers to the numbering on the bottom left side of documents from the file history of U.S. Patent No. 5,068,846, for Exhibits 2-5 and 7-12.

4. Attached at **Exhibit 3** is a true and correct copy of a Supplemental Amendment Under Rule 116 dated August 8, 1978, in U.S. Patent Application Serial No. 05/772,914, filed February 28, 1977.

5. Attached at **Exhibit 4** is a true and correct copy of the application for U.S. Patent Application Serial No. 05/344,867, filed March 26, 1973.

6. Attached at **Exhibit 5** is a true and correct copy of an Amendment dated January 24, 1978, in U.S. Patent Application Serial No. 05/772,914, filed February 28, 1977.

7. Attached at **Exhibit 6** is a true and correct copy of U.S. Patent No. 3,665,425.

8. Attached at **Exhibit 7** is a true and correct copy of an Amendment Under Rule 116 dated July 24, 1978, in U.S. Patent Application Serial No. 05/772,914, filed February 28, 1977.

9. Attached at **Exhibit 8** is a true and correct copy of an Advisory Action dated August 8, 1978, in U.S. Patent Application Serial No. 05/772,914, filed February 28, 1977.

10. Attached at **Exhibit 9** is a true and correct copy of an Amendment dated April 14, 1982, in U.S. Patent Application Serial No. 06/146,554, filed May 5, 1980.

11. Attached at **Exhibit 10** is a true and correct copy of a Notice of Appeal and Appeal Brief, dated August 9, 1990, in U.S. Patent Application Serial No. 06/858,550, filed April 23, 1986.

12. Attached at **Exhibit 11** is a true and correct copy of a Preliminary Amendment dated February 24, 1977, in U.S. Patent Application Serial No. 05/772,914, filed February 28, 1977.

13. Attached at **Exhibit 12** is a true and correct copy of an Amendment dated October 1, 1981, in U.S. Patent Application Serial No. 06/146,554, filed May 5, 1980.

14. Attached at **Exhibit 13** is a true and correct copy of pp. 1535 and 2429 from Webster's Third International Dictionary, bearing a copyright notice dated 1993.

15. Attached at **Exhibit 14** is a true and correct copy of the file history for U.S. Patent No. 5,068,846, including the file histories for all patent applications to which the '846 Patent claims priority.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: October 1, 2009

/s/ Gregory J. Carbo
Gregory J. Carbo

CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of October, 2009, I caused the foregoing **DECLARATION OF GREGORY J. CARBO IN SUPPORT OF DEFENDANTS' OPENING MARKMAN BRIEF CONCERNING U.S. PATENT 5,068,846** was served by email and first class mail, postage prepaid, on the following attorneys for plaintiffs, addressed as follows:

Edward D. Johnson
MAYER BROWN LLP
Two Palo Alto Square, Suite 300
3000 El Camino Real
Palo Alto, California 94306-2112
wjohnson@mayerbrown.com

Vince P. Kovalick
John F. Hornick
Samuel C. Bass
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
901 New York Avenue, N.W.
Washington, D.C. 20001
vince.kovalick@finnegan.com
John.Hornick@finnegan.com
Samuel.Bass@finnegan.com

Christopher J. Hought
MAYER BROWN LLP
1675 Broadway
New York, New York 10019
chought@mayerbrown.com

/s/ Gregory J. Carbo
Gregory J. Carbo